

House Engrossed

**FILED**

**KEN BENNETT  
SECRETARY OF STATE**

State of Arizona  
House of Representatives  
Forty-ninth Legislature  
Second Regular Session  
2010

CHAPTER 105

# **HOUSE BILL 2774**

AN ACT

AMENDING SECTION 12-1841, ARIZONA REVISED STATUTES; RELATING TO THE UNIFORM  
DECLARATORY JUDGMENTS ACT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 12-1841, Arizona Revised Statutes, is amended to  
3 read:

4 12-1841. Parties; notice of claim of unconstitutionality

5 A. When declaratory relief is sought, all persons shall be made  
6 parties who have or claim any interest which would be affected by the  
7 declaration, and no declaration shall prejudice the rights of persons not  
8 parties to the proceeding. In any proceeding ~~which~~ THAT involves the  
9 validity of a municipal ordinance or franchise, such municipality shall be  
10 made a party and shall be entitled to be heard. In any proceeding in which a  
11 state statute, ordinance, franchise or rule is alleged to be  
12 unconstitutional, the attorney general and the speaker of the house of  
13 representatives and the president of the senate shall be served with a copy  
14 of the pleading, motion or document containing the allegation at the same  
15 time the other parties in the action are served and shall be entitled to be  
16 heard.

17 B. If a pleading, motion or document containing the allegation is  
18 served on the attorney general and the speaker of the house of  
19 representatives and the president of the senate pursuant to subsection A, a  
20 notice of claim of unconstitutionality shall be attached to the pleading,  
21 motion or document as the cover page and shall state the following  
22 information:

23 1. The name, address and telephone number of the attorney for the  
24 party alleging that a state law is unconstitutional or the name, address and  
25 telephone number of the party if the party is not represented by an attorney.

26 2. The case name, court name, caption and case number of the  
27 proceeding.

28 3. A brief statement of the basis for the claim of  
29 unconstitutionality.

30 4. A brief description of the proceeding, with copies of any court  
31 orders in the proceeding if the claim of unconstitutionality is asserted in a  
32 pleading, motion or document other than the pleading, motion or document that  
33 initiated the proceeding.

34 5. The date, time, location, judge and subject of the next hearing in  
35 the proceeding, if any.

36 C. If the attorney general or the speaker of the house of  
37 representatives and the president of the senate are not served in a timely  
38 manner with notice pursuant to subsection A, on motion by the attorney  
39 general, the speaker of the house of representatives or the president of the  
40 senate the court shall vacate any finding of unconstitutionality and shall  
41 give the attorney general, the speaker of the house of representatives or the  
42 president of the senate a reasonable opportunity to prepare and be heard.

1 D. THIS SECTION SHALL NOT BE CONSTRUED TO COMPEL THE ATTORNEY GENERAL,  
2 THE SPEAKER OF THE HOUSE OF REPRESENTATIVES OR THE PRESIDENT OF THE SENATE TO  
3 INTERVENE AS A PARTY IN ANY PROCEEDING OR TO PERMIT THEM TO BE NAMED AS  
4 DEFENDANTS IN A PROCEEDING. THE ATTORNEY GENERAL, THE SPEAKER OF THE HOUSE  
5 OF REPRESENTATIVES OR THE PRESIDENT OF THE SENATE, IN THE PARTY'S DISCRETION,  
6 MAY INTERVENE AS A PARTY, MAY FILE BRIEFS IN THE MATTER OR MAY CHOOSE NOT TO  
7 PARTICIPATE IN A PROCEEDING THAT IS SUBJECT TO THE NOTICE REQUIREMENTS OF  
8 THIS SECTION.

APPROVED BY THE GOVERNOR APRIL 20, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 21, 2010.